

§ 159-83. Powers.

(a) In addition to the powers they may now or hereafter have, the State and each municipality shall have the following powers, subject to the provisions of this Article and of any revenue bond order or trust agreement securing revenue bonds:

- (1) To acquire by gift, purchase, or exercise of the power of eminent domain or to construct, reconstruct, improve, maintain, better, extend, and operate, one or more revenue bond projects or any portion thereof without regard to location within or without its boundaries, upon determination (i) in the case of the State, by the Council of State and (ii) in the case of a municipality, by resolution of the governing board that a location wholly or partially outside its boundaries is necessary and in the public interest. The authority to exercise the power of eminent domain granted in this subdivision shall not apply to economic development projects described in G.S. 159-81(3)m., unless revenue bonds for the economic development project were approved by the Local Government Commission pursuant to G.S. 159-87 prior to August 15, 2006.
- (2) To sell, exchange, transfer, assign or otherwise dispose of any revenue bond project or portion thereof or interest therein determined (i) in the case of the State, by the Council of State and (ii) in the case of a municipality, by resolution of the governing board not to be required for any public purpose.
- (3) To sell, furnish, and distribute the services, facilities, or commodities of revenue bond projects.
- (4) To enter into contracts with any person, firm, or corporation, public or private, on such terms (i) in the case of the State, as the Council of State and (ii) in the case of a municipality, as the governing board may determine, with respect to the acquisition, construction, reconstruction, extension, betterment, improvement, maintenance, or operation of revenue bond projects, or the sale, furnishing, or distribution of the services, facilities or commodities thereof.
- (5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying the cost of revenue bond projects, to issue its revenue bonds or bond anticipation notes therefor, in the name of the State or a municipality, as the case may be, and to pledge, mortgage, or grant a security interest in all or a portion of the real and personal property, whether owned or leased, comprising any revenue-producing utility or public service enterprise facilities or systems acquired, constructed, reconstructed, extended, bettered, or improved with the proceeds of the borrowing. Property subject to a mortgage, deed of trust, security interest, or similar lien pursuant to this subdivision may be sold at foreclosure in any manner permitted by the instrument creating the encumbrance, without compliance with any other provision of law regarding the disposition of publicly owned property. The granting of a lien on, or security interest in, hospital or health-related real or tangible personal property and the conveyance of this property pursuant to the provisions of the lien or security interest are not subject to the provisions of G.S. 131E-8, 131E-13, or 131E-14.
- (6) To establish, maintain, revise, charge, and collect such rates, fees, rentals, tolls, or other charges, free of any control or regulation by the North Carolina Utilities Commission or any other regulatory body except as

provided in G.S. 159-95 for the use, services, facilities, and commodities of or furnished by any revenue bond project, and to provide methods of collection of and penalties for nonpayment of such rates, fees, rentals, tolls, or other charges. The rates, fees, rentals, tolls and charges so fixed and charged shall be such as will produce revenues at least sufficient with any other available funds to meet the expense and maintenance and operation of and renewals and replacements to the revenue bond project, including reserves therefor, to pay when due the principal, interest, and redemption premiums (if any) on all revenue bonds or bond anticipation notes secured thereby, and to fulfill the terms of any agreements made by the State or the issuing municipality with the holders of revenue bonds issued to finance all or any portion of the cost of the project.

- (7) To pledge all or part of any proceeds derived from the use of on-street parking meters to the payment of the cost of operating, maintaining, and improving parking facilities whether on-street or off-street, and the principal of and the interest on revenue bonds or bond anticipation notes issued for on-street or off-street parking facilities.
- (8) To pledge to the payment of its revenue bonds or bond anticipation notes and interest thereon revenues from one or more revenue bond projects and any leases or agreements to secure such payment, including revenues from improvements, betterments, or extensions to such projects thereafter constructed or acquired as well as the revenues from existing systems, plants, works, instrumentalities, and properties of the projects to be improved, bettered, or extended.
- (8a) In the case of any county, city, town, or incorporated village, to make loans or advances to a municipality to provide funds to the municipality to pay any costs of any revenue bond project. Funds received by a municipality in reimbursement of a loan or advance shall be distributed and restricted as provided in G.S. 159-27.1.
- (9) To appropriate, apply, or expend for the following purposes the proceeds of its revenue bonds, notes issued in anticipation thereof, and revenues pledged under any resolution or order authorizing or securing the bonds: (i) to pay interest on the bonds or notes and the principal or redemption price thereof when due; (ii) to meet reserves and other requirements set forth in the bond order or trust agreement; (iii) to pay the costs of the revenue bond projects authorized in the bond order, reimburse funds loaned or advanced for the costs of these revenue bond projects in accordance with the bond order, and provide working capital for initial maintenance and operation until funds are available from revenues; (iv) to pay and discharge revenue bonds and notes issued in anticipation thereof; (v) to pay and discharge general obligation bonds issued under Article 4 of this Chapter or under any act of the General Assembly, when the revenues of the project financed in whole or in part by the general obligation bonds will be pledged to the payment of the revenue bonds or notes.
- (10) To make and enforce rules and regulations governing the use, maintenance, and operation of revenue bond projects.
- (11) To accept gifts or grants of real or personal property, money, material, labor, or supplies for the acquisition, construction, reconstruction, extension, improvement, betterment, maintenance, or operation of any revenue bond

project and to make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.

- (12) To accept loans, grants, or contributions from, and to enter into contracts and cooperate with the United States of America, the State of North Carolina, or any agency thereof, with respect to any revenue bond project.
- (13) To enter on any lands, waters, and premises for the purpose of making surveys, borings, soundings, examinations, and other preliminary studies for constructing and operating any revenue bond project.
- (14) To retain and employ consultants and other persons on a contract basis for rendering professional, financial, or technical assistance and advice and to select and retain subject to approval of the Local Government Commission the financial consultants, underwriters and bond attorneys to be associated with the issuance of any bonds and to pay for services rendered by underwriters, financial consultants or bond attorneys out of the proceeds of any such issue with regard to which the services were performed.
- (15) Subject to any provisions of law requiring voter approval for the sale or lease of utility or enterprise systems, to lease to or from any person, firm, or corporation, public or private, all or part of any revenue bond project, upon such terms and conditions as and for such term of years, not in excess of 40 years, (i) in the case of the State, as the Council of State and (ii) in the case of a municipality, as the governing board may deem advisable to carry out the provisions of this Article, and to provide in such lease for the extension or renewal thereof and, if deemed advisable, for an option to purchase or otherwise lawfully acquire the project upon terms and conditions therein specified.
- (16) To execute such instruments and agreements and to do all things necessary or therein in the exercise of the powers herein granted, or in the performance of the covenants or duties of the State or a municipality, as the case may be, or to secure the payment of its revenue bonds.

(b) Any contract, agreement, lease, deed, covenant, or other instrument or document evidencing an agreement or covenant between bondholders or any public agency and the State or a municipality issuing revenue bonds with respect to any of the powers conferred in this section shall be approved by the commission.

(c) In addition to the powers they may now or hereafter have, the State and each municipality shall have the following powers, notwithstanding any provisions of this Article to the contrary, in connection with the development of new and existing seaports and airports:

- (1) To acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interests therein;
- (2) To finance and refinance for public and private parties seaport and airport facilities and improvements that relate to, develop, or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation, and environmental facilities and improvements;
- (3) To secure any such financing or refinancing by all or any portion of its revenues, income or assets or other available moneys associated with any of its seaport or airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of its

properties associated with any of its seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of its faith and credit.

(d) In addition to the powers they may now or hereafter have, the State and each municipality shall have the following powers, notwithstanding any provisions of this Article or any other statute to the contrary, in connection with the development of facilities for the use of any agency or agencies of the government of the United States of America:

- (1) To acquire, construct, own jointly with public and private parties, lease as lessor or leasee, mortgage, sell, or otherwise dispose of lands, facilities and improvements, including undivided interests therein and to do so, regardless of the provisions of any other statute, on such terms (i) in the case of the State, as the Council of State and (ii) in the case of a municipality, as the governing board may deem advisable to carry out the provisions of this subsection;
- (2) To finance and refinance facilities and related improvements for the use of any agency of the government of the United States of America;
- (3) To secure any such financing or refinancing by all or any portion of the revenue, income or assets or other available monies associated with such facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of its faith and credit.

(e) Repealed by Session Laws 2001-174, s. 39, effective November 29, 2001.

(f) In addition to the powers they may now or hereafter have, each municipality has the power to finance and refinance the cost of water treatment facilities and related transmission mains, and their expansion and improvement, all or some portion of which may be located on land leased from an authority created under the provisions of G.S. 162A-3.1, for a term not less than the term of the obligations issued or otherwise incurred for the purpose. The authority may own or operate (or both) such facilities and mains and may contract with one or more of the political subdivisions that are members of the authority for operation of all or portions thereof. For this purpose, each municipality has, in addition to the powers it has under applicable law, all the powers under G.S. 162A-6(b) of an authority created under G.S. 162A-3.1, and the political subdivisions that are members of the authority and that contract with such municipality for a supply of water and a portion of the capacity of the water treatment facilities and mains shall have all the powers of political subdivisions under G.S. 162A-6(b) and G.S. 162A-16 contracting with an authority created under G.S. 162A-3.1. This provision is supplemental to the other provisions of this Article. (Ex. Sess., 1938, c. 2, s. 3; 1951, c. 703, ss. 2, 3; 1953, c. 922, s. 2; 1969, c. 1118, s. 2; 1971, c. 780, s. 1; 1973, c. 494, s. 17; 1983, c. 554, ss. 3-4; 1985, c. 723, s. 2; 1985 (Reg. Sess., 1986), c. 795, s. 1; c. 933, s. 4; 1987 (Reg. Sess., 1988), c. 976, s. 2; 1989, c. 168, ss. 39, 40; 1991, c. 508, s. 2; 2001-474, ss. 38, 39; 2005-238, s. 4; 2005-249, s. 1; 2006-224, s. 3; 2006-259, s. 47.)